

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

WILLIAM DOUGLAS HANING,

Defendant.

No. 4:18-CR-00139-RWS-NAB

MOTION TO QUASH

The United States respectfully moves the Court for an order quashing subpoenas issued by the defense for testimony on January 2, 2019, from five witnesses, i.e., Charles Birmingham, Gilbert Sison, Kyle Bateman, Doug Boland, and Wade Beach.

Defense counsel attempted service of said subpoenas on December 19, 2018, via e-mail. The letter accompanying the email is attached. Government counsel delivered a responsive letter via e-mail the next day, December 20, 2018. The Government's responsive letter is attached.

While advising defense counsel that it was not necessary to issue subpoenas, we also advised defense counsel that it would be impossible for the Government to even consider authorizing testimony from any of the five witnesses, each of whom are Government employees, unless and until the defense complied with the regulations governing witness testimony from Government witnesses in cases where, as here, the United States is a party.

We spelled out in the responsive letter the manner in which compliance with the regulations was required. We expressed a willingness in the letter to discuss informally any concerns or issues the defense might have regarding compliance with the regulations. Despite these efforts, the defense response has been radio silence.

We forecast this issue for the Court when filing Doc. No. 98 on December 27, 2018. We noted then that the defendant had not responded in any manner and that the requirements of the regulation remained unsatisfied. It is now December 30, 2018, which means ten days have passed since the defense was notified that unless and until the defendant complied with the regulation, the process for considering whether to authorize testimony could not even begin. There is insufficient time between now and the date of the hearing for that consideration to occur.

Accordingly, based on the defendant's failure to comply with the regulations governing testimony from a Government witness in which the United States is a party, the United States respectfully moves the Court for an order quashing the subpoenas, and notifies the Court that because of the defendant's failure to timely comply with the applicable regulations in advance of the scheduled hearing, testimony from the witnesses cannot be authorized.

Respectfully submitted,

MATTHEW G. WHITAKER
Acting United States Attorney General

TIMOTHY A. GARRISON
United States Attorney
Western District of Missouri

/s/ Phillip Eugene Porter
Phillip Eugene Porter
Special Attorney to the Attorney General

CERTIFICATE OF SERVICE

I hereby certify that on December 30, 2018, the foregoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system upon all counsel of record.

/s/ Phillip Eugene Porter
Phillip Eugene Porter
Special Attorney to the Attorney General